

5-Point Checklist of Best Practices for Short-term Mission Trips

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If your church or charitable organization is sponsoring or supervising mission trips outside of Canada, there exists a high legal duty of care on the part of your leaders (including directors, officers, administrators and trip leaders) for the health and safety of workers while at, and travelling to and from, those destinations. This duty and the potential for legal liability has always existed under common law in cases where an employee or volunteer has suffered bodily injury or a fatality, has been the victim of a crime or kidnapping, or has acquired a serious illness or infectious disease, while acting within the scope of their duties abroad.

The recent kidnapping of a Samaritan's Purse worker in Sudan involved extended captivity for over 3 months, and fortunately her eventual release. However it also resulted in her lawsuit seeking significant civil damages against the organization and its directors based on their allegedly willfully ignoring warning signs that abductions were a threat to foreigners in that area and thereby placing her in a dangerous situation and as a result, suffering severe mental anguish during and since the kidnapping. The threat of kidnapping, including an epidemic of express kidnapping, has also become rampant in various parts of the world, including Central America, Eastern Europe and southern Africa.

Another serious risk to be considered by mission-sending organizations is the proliferation of terrorism and terrorist groups throughout the world, including in countries and regions previously considered low or moderate risk, such as recent attacks during the past year in Tunisia, Mali,

Burkina Faso, Kenya, Nigeria, Egypt, Somalia, Turkey, Ukraine, The Philippines, Indonesia, and others, underscoring the threat to aid and missionary workers as targets of radical groups during travel and work throughout the world on behalf of their church or charity.

The tragic death of four short-term church missionaries from Michigan when their van plunged over the side of a mountain in Haiti in 2013 was a reminder of the much higher risk of transportation injuries in developing countries due to poor road conditions, vehicles, driver licensing standards and vehicle age and safety condition, often including a complete lack of operable seatbelts, airbags and safety inspections. For a complete overview of the risks associated with missions, relief and development travel abroad and practical tips to keep your staff and volunteers safe, refer to our *Protecting People Worldwide* article.

The traditional common law Duty of Care for workers has now become even more paramount here in Canada with recent amendments to Bill C45, also known as the Westray Bill. Under the provisions of the amended bill, there is the potential for criminal liability against an employer, such as a mining resources company operating with Canadian managers and employees abroad. However provisions also potentially apply to charities or non-governmental organization who sponsor and send staff and volunteers abroad on missions, relief and development programs. This is because the wordings and definitions contained in amendments to this federal workplace safety legislation now define employer organizations more broadly to include "associations of persons", and the term

“work” is now more broadly interpreted to include “tasks”, potentially including those of a volunteer nature being carried out across Canada and throughout the world, whether by a corporation, a non-profit or a charity. In essence, the provisions contained in these amendments have extended the concept of the “workplace” beyond the four walls of the place of work or physical location of the organization. In cases of gross negligence where employees or volunteers are placed in a dangerous or extreme situation while carrying out their work on behalf of the organization anywhere in the world, both the entity and its directors can be deemed criminally culpable under the law. The emergence of this potential for criminal liability is a wake-up call for many employers and organizations utilizing either paid or volunteer workers to advance corporate objects, programs, ministries and missions and has underscored the importance of their directors demonstrating both the proper Duty of Care and Bill C-45 compliance.

Following is a basic checklist of short-term mission trips risk management “best practices” to avoid unnecessarily high risk to the personal safety of your mission participants and exposing your organization and board members to lawsuits:

- 1 Mandatory out-of-country Travel Emergency Medical insurance for ALL leaders and participants on the trip. Written proof of insurance should be provided by each participant prior to departure to the organization’s administrator or board members. Please note that many travel insurance plans contain restrictions for certain destinations and pre-existing medical conditions and that a lack of proper emergency medical coverage can result in financial hardship for the individual and the potential for legal liability against the organization for an injured or ill mission worker facing tens or hundreds of thousands of dollars in uninsured emergency medical bills.

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plus

Custom-designed group travel insurance protects employees, volunteers, leaders and directors while on short-term mission trips and other ministry travel

Travel Protection Plus includes:

- ◆ \$5,000,000 Emergency Medical Insurance coverage
- ◆ Plus Exclusive TravelTracker
- ◆ Plus Assistance App powered by International SOS

Plus optional coverages:

- Security Evacuation and Kidnap Consulting
- Full Kidnap, Ransom and Extortion Coverage

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NOTE: If you are a client organization of Robertson Hall Insurance under our Church and Charity Protection Plus (CPP) insurance program, you are now eligible for our new optional Travel Protection Plus group insurance program custom-designed to protect your employees and volunteers while on short-term mission trips and ministry travel. Coverage is available on a single-trip or multi-trip annual policy basis, includes \$5,000,000 Emergency Medical, Accidental Death and Injury and Life Insurance coverage. Every Travel Protection Plus policy comes with exclusive access to International SOS Comprehensive Membership, the world’s largest medical and security assistance provider, with 11,000 employees lead by 5,600 medical professionals and 200 security experts around the globe. Membership includes 24/7 advice from medical and security experts, TravelTracker advisories and security alerts via email both pre-trip and for the duration of travel, and a smartphone Assistance App so that you can receive advisories and alerts instantaneously “on the go” with the capability to speed dial the nearest assistance centre, all in the palms of your travellers’ hands when they need it most. In addition to coverage for Emergency Medical Evacuation coverage included standard in every policy, Travel Protection Plus also offers coverage options for Security Evacuation and Kidnap Consulting Indemnity and for full Kidnap, Ransom and Extortion coverage, to help your workers in times of need and to assist your directors and officers in preventing and defending lawsuits by helping them meet their legal duty of care under common law and Bill C-45. Every Travel Protection Plus policy also comes with a “Good To Go” certificate verifying to your board and management that ALL listed travellers are protected based on the coverage options chosen by your organization, to help your organization and directors meet their Duty of Care for the safety of your short-term missionaries and employees while abroad.

NOTES ABOUT MINORS AND SHORT-TERM MISSIONS:

The safest way of sponsoring mission trips with minors as participants from a legal and insurance standpoint is to require that children and youth under the age of majority remain at all times in the care of their parent or guardian during the trip. More and more organizations are starting to do this, where the focus is on a family-based outreach with children accompanying and in the care of their parents, especially adults who have real and practical skills to assist in mission, relief and development work.

The recent and tragic case of a Canadian teenager on a mission trip to the Dominican Republic who suffered a fall from balcony where the group was staying and is now quadriplegic, resulted in a \$17-million dollar lawsuit against the sponsoring church, mission-sending organization and trip leaders, due to a lack of supervision. Another example of a potential liability associated with youth travel came to light when groups of teens and students on sponsored trips from Canada and the U.S. were caught in the midst of looting, violence and adverse health and safety conditions in the aftermath of the 2010 earthquake in Haiti. Those groups had to be evacuated on a priority basis using valuable resources ahead of victims and furthermore, many of the parents held the sponsoring organizations legally responsible for the mental anguish suffered by their children. These and other examples have resulted in a re-thinking of children being placed in potentially dangerous destinations and situations by schools, non-profits and charities and have brought into sharp focus the high duty of care and legal realities associated with sponsoring travel with minors.

Following are important legal and practical considerations for your board members to keep in mind if you are sponsoring mission trips with youth:

- Many North Americans do not fully understand the realities, challenges and conditions in the developing world. As parents, they often have unrealistically high expectations of the duty of care of an organization and its leaders for the care of their children and are likely to sue those organizations and their board members for anything that may happen to their children on such trips, especially for serious or permanent injuries.
- However well-meaning and accepting a family may be regarding the risk of their child being

2 All participants should check with their own family physician to confirm that they do not have any pre-existing medical conditions that might prevent or restrict them from being placed in strenuous situations associated with travel to the destination(s) and/or participation in the proposed activities and work, including verification that they have received the recommended inoculations and medication for any tropical or infectious diseases inherent in the proposed region of travel.

3 It is recommended participants be age of majority (i.e. not minors). This is 18 years of age in Quebec, Ontario, Manitoba, Saskatchewan and Alberta and 19 years of age in all other provinces and territories. Refer to *Notes About Minors and Short-term Missions* regarding the extremely high duty of care and the legal and practical considerations that should be taken into account if you are considering including minors on mission trips.

4 All participants must sign an informed consent that clearly discloses the specific medical, climate and personal safety risks associated with travel to the proposed destination(s) including the modes and risks of transportation being used and a waiver of liability releasing the sponsoring organization and its directors, officers, trustees, employees, volunteer leaders and any other legal representatives from any legal liability for personal injury or property damage arising from those risks that are beyond the control of the sponsoring organization and its leaders.

5 Your organization and its board members should check with the Government of Canada's Department of Foreign Affairs and International Travel (DFAIT) for the current travel advisories and warnings for the intended country and/or regional destination(s), right up to the date of departure. Groups or individuals should not be sent into countries or regions with a Level 4 warning (i.e. "AVOID ALL TRAVEL"). Groups and/or individuals should only be sent to countries or regions with a Level 3 warning (i.e. "AVOID NON-ESSENTIAL TRAVEL") if they are providing essential medical, health care or other services in a natural disaster or emergency crisis situation and/or are being provided with support, security and transportation by other experienced and reputable Non-Governmental Organizations (NGO) operating on the ground in that country or region. The DFAIT website is <http://www.voyage.gc.ca/travelling/advisories>

injured, killed or acquiring a life-threatening tropical or infectious disease while on a mission trip, and however much they may not have any intention beforehand to sue the organization, the reality of a child requiring extensive medical care or suffering permanent damage for the remainder of their life will often cause a change in heart and/or simply force parents toward a legal recourse in order to avoid financial hardship, burden or personal bankruptcy for the long-term care of their injured or disabled child.

- A waiver signed on behalf of a child by their parent or guardian is generally considered legally unenforceable! One party cannot sign away the legal right of another and even if a parent supports the organization and may hold a great deal of influence over their child as a minor, once that child reaches the age of majority, they will in any event be able to take legal action against the sponsoring organization in their own right.
- Sponsoring organizations and their leaders sometimes do not fully understand their legal duty of care for minors, especially in light of the implications of Bill C45. It is a huge responsibility for a group of volunteer trip leaders to provide sufficient supervision for risk-taking and adventure-seeking teenagers. Trip leaders may lack the resources, experience and expertise to deal with all of the situations they can potentially face in the developing world. A recent example of this was the case of a youth worker on a week-long mission trip who suffered a severe neck injury while participating in a recreational activity on the group's fun day off, resulting in a multi-million dollar lawsuit against the organization and its leaders for a lack of supervision.

- From a practical standpoint it is often difficult for sponsoring organizations to operate mission trips involving minors in compliance with the legal and insurance obligations under their own abuse prevention plan, such as full screening of trip leaders, a "two-adult" rule, avoiding billeting in unscreened host family residences abroad and all of the other policies and procedures the organization has committed to in order to qualify for full liability protection. This lack of compliance may invalidate their liability coverage for actual or alleged abuse claims occurring on mission trips within or outside of Canada, whether the alleged victim is a minor on the trip or a foreign national child participant in a program, ministry or event sponsored by the group.
- There is great value for young people travelling abroad in terms of their personal, spiritual and life skills development, whether it be with parents, through school or with other organizations, especially when it involves faith in action. Ultimately, however, your organization's leaders must weigh whether the benefits of advancing your programs, ministries and charitable objects to those you are trying to reach in the mission field by including minors are worth the risk, high level of care and qualified supervision required to keep minors safe on sponsored trips to higher risk locations or involving higher risk activities.

We hope this checklist helps to provide your leaders with practical tips and insurance solutions to help meet your Duty of Care and to keep your short-term mission participants safe, including trips involving children or youth.